Applicant(s) : Serge Fdida
Serial No. : 10/535,380
Filed : May 19, 2005
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Attorney Docket No.: 35201-003US1
Client Ref. No.: FR03/03473 US

REMARKS

Claims 1-10 are pending in this application, of which claims 1 and 6 are independent. Favorable reconsideration of the action mailed December 1, 2008, is respectfully requested in view of the following remarks.

Independent claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,793,954 (Baker) in view of U.S. Patent Publication 2003/0041050 (Smith). The Examiner acknowledges that Baker disclose "triggering said [action] when said valid state of the filter results from protocol attribute values afforded by the communication data" (December 1, 2008, office action, page 7). The examiner looks to Smith, a web-based marketing system, for this feature.

The applicants disagree with the examiner's position that a person of skill in the art would have modified Baker's system for analyzing data flows in network protocols, with the teachings of Smith. However, even if a skilled person in the art would somehow have done so (which we disagree), she still would not arrive at the invention recited in claim 1.

Specifically, we submit that neither Baker nor Smith, separately or in any proper combination disclose a method for triggering ... at least one action on digital communication data when they belong to one and the same semantic flow for which said action is designed, the method including feeding the device with at least one filter having **three possible states** which result from one or more conditions on one or more protocol attributes specified for said semantic flow ... applying the **three-state** filter to said communication data as long as these data have not afforded protocol attribute values other than those from which said uncertain state of the filter results, as recited in claim 1.

Baker's system does not describe using a filter having three possible states. Baker's filter has two filter states: a "PASS_FRAME" state and a "FILTER_FRAME" state. (see, e.g., col. 10, lines 14-21.) No third filter state is described and thus Baker neither describes nor would have made obvious all features of claim 1.

Smith describes "a personalization system that uses rules to adjudicate and characterize a customer … and then to personalize a business function … based on the outcome of those rules" (paragraph [0009]). In Smith, an "events service 130 is used to receive a particular event" and a "scenario service 136 … is used to filter out scenarios" and "determines if the event type is valid … if it is not valid then the scenario may be ignored" (paragraph [0075]). Smith describes two "event types" and does not describe *any* filter states.

As such, Baker, whether taken alone or in combination with Smith, neither describes nor would have suggested "feeding the device with at least one filter <u>having three possible states,</u>" as required by applicants' claim 1.

Dependent claims 2-5 are patentable for at least the same reasons as the claim on which they depend is patentable.

Dependent claim 5 was further rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Smith and in further view of International Publication WO 2001/22686 (Kloth). Kloth, whether taken alone or in combination with Baker or Smith, or both, neither describes nor would have suggested "feeding the device with at least one filter <u>having three possible states,</u>" as required by applicants' claim 1.

Independent claim 6 was rejected under 35 U.S.C. 102(b) as being anticipated by Baker.

Claim 6 recites a computer system for triggering at least one action on digital communication data, in which the system comprises a "database for feeding the filtering engine with at least one filter having <u>three possible states.</u>"

As argued above, Baker's system describes only two filters and thus, whether taken alone or in combination with Smith or Kloth, neither describes nor would have made obvious all features of claim 6.

Applicants' claim 6 also recites a means usable by the action engine to "trigger said action when said valid state is contained in the data structure," which the examiner

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has conceded is absent from Baker (see December 1, 2008, office action, page 7). Thus, Baker neither describes nor would have made obvious all features of claim 6.

Dependent claims 7-10 are patentable for at least the same reasons as the claim on which they depend is patentable.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fees are believed to be due. Please apply any appropriate charges not covered, or any credits owed, to Deposit Account 50-4189, referencing Attorney Docket 35201-003US1.

Respectfully submitted,

Date: March 2, 2009   /Frank R. Occhiuti/
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